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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte DONALD R. FRALIC

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Appeal 2009-009110
Application 10/047,366
Technology Center 3600

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Decided: June 28, 2010

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Before, ANTON W. FETTING, JOSEPH A. FISCHETTI, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

    Appellant seeks our review under 35 U.S.C. § 134 of the Examiner's final
rejection of claims 1-3 and 5. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

    The Examiner relies upon the following as evidence of unpatentability:

| Silverman | US 5,924,082 | July 13, 1999 |
| Waldo | US 6,237,009 B1 | May 22, 2001 |

The Examiner rejected claims 1-3 and 5[1] obvious under 35 U.S.C. § 103b (a) over Silverman in view of Waldo.

Claim 1, reproduced below, is representative of the subject matter on appeal.

1. A lease auction method comprising the steps of:

(a) providing to at least one lessor's computer via a computer network a first plurality of lessee entered qualitative lessor variables and a first plurality of lessee entered quantitative lessor data regarding a lease input at a lessee's computer;

(b) receiving from each lessor's computer via the computer network a second plurality of lessor entered qualitative lessor variables and a second plurality of lessor entered quantitative lessor data regarding the lease;

(c) receiving from the lessee's computer via the computer network for at least one of the lessor entered qualitative lessor variables for each lessor at least one of a grade and a relative weight related to an importance of the at least one lessor entered quantitative lessor variable to the lessee;

(d) for each lessor, processing the at least one of the grade and the relative weight received for the at least one lessor entered qualitative lessor variable and the lessor entered quantitative lessor data to determine a weighted total score;

(e) ranking the weighted total scores;

(f) displaying the ranked weighted total scores on the lessee's computer and each lessor's computer via the computer network; and

(g) repeating steps (c) through (f) each time a change of at least one of the lessor entered qualitative lessor variables or at least one of the lessor entered quantitative lessor data is received from at least one of the lessor's computers via the computer network, wherein the lessor entered qualitative lessor variables and the lessee entered qualitative lessor variables each include at least one of the

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[1] Although the Final Office Action did not group claim 2 in the rejection, it nevertheless addressed claim 2 in the analysis section, the Answer groups claim 2 and the Appeal Brief argues claim 2.

following: lessor's lease documents; lessor's reputation; lessor's knowledge of the item being leased; lessor's status as a private or public entity; and whether the lessor is also a vendor.

Independent claim 1 the sole independent on appeal recites in pertinent part *(c) receiving from the lessee's computer via the computer network for at least one of the lessor entered qualitative lessor variables for each lessor at least one of a grade and a relative weight related to an importance of the at least one lessor entered qualitative lessor variable to the lessee....*

The Examiner found that Silverman discloses this limitation referencing: "[t]he aforementioned objects, as well as other objects, of the present invention are achieved by providing a negotiated matching system with a filtering feature that filters the potential transactions to be displayed to a trader based on ranking and other transaction information input by the trader and potential counterparties. Silverman 5,924,082, col. 4, lines 13-18)." (Answer 4)

Appellant however maintains that:

> The Silverman et al. patent, however, does not disclose, teach or suggest any reason for one counterparty to a transaction to assign a grade or relative weight to ranking information entered by another counterparty to a transaction. To this end, as best understood, the Silverman et al. patent utilizes the ranking information to simply match acceptable counterparties to a transaction without any further use of this ranking information in the interactive manner of steps (a)-(c) of claim 1. (Appeal Br. 4)

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We agree with Appellant because it is the user himself in Silverman who inputs his own ranking information indicating the party's willingness to trade with another party (col. 9. ll. 25-40). The system uses only the ranking information from a given user to compare with that of another which match the given user's criteria, e.g., size of counter party is a filter criteria for a match (col. 10. ll. 6-10). No one party *grades* or gives *a relative weight related to an importance* to the information of the other. This is done through the intermediary of a filter based on common compatibility criteria (col. 12 ll. 64-67). Thus, even the ranking information which is identified by the Examiner attributable to step e (Answer 5) cannot be read as a ranking resulting from the grade given by the counter party, e.g., lessee grades the lessor's information, because that information is only the result of the same user's input (col. 9. ll. 25-40). It is not apparent from the Examiner's analysis how such a difference would be unobvious, and thus we will not sustain the rejection of claim 1.

Since claims 2, 3, and 5 depend from claim 1, and since we cannot sustain the rejection of claim 1, the rejection of claims 2, 3, and 5 likewise cannot be sustained.

<div align="center">REVERSED</div>

JRG

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